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| HAYES, SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718 | | | FADOK, MARK A | |
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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/855,149
Filing Date: May 14, 2001
Appellant(s): SERA, YOSHINOBU

Norman P. Soloway
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/7/2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

The appellant's statement of the issues in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Prior Art of Record

6,512,570 Garfinkle 1-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are unpatentable under 35 U.S.C. 102(e) as being anticipated by Garfinkle (US 6,512,570).

In regards to claim 1, Garfinkle discloses a network commerce system comprising:

an orderer terminal for interaction with an orderer ordering an item or service (FIG 1, Item 8);

a plurality of producing/processing terminals each for interaction with a producer/processor (FIG 1, item 12),

said producer/processor producing and processing said item or providing a produced and processed item, in accordance with an order from said orderer terminal (FIG 5B);

wherein said orderer terminal and said producing/processing terminal are interconnected via said network (FIG 1); and a headquarters terminal including a receiver for receiving an order from said orderer terminal transmitted via said network (FIG 1, Interfaces, A,B and C, see also, col 10 lines 28-40 where it is distinctly taught that interface B receives an order from an orderer (photographer 8) and the order is transmitted to a producing/processing terminal (fulfillment center 20) via a network interconnected as shown in FIG 1) and

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a transmitter for transmitting the order received by said receiver to a producing/processing terminal via said network (col 10 –lines 15-40);

said headquarters terminal selectively determining said producing/processing terminal in accordance with a received order and then making the selected producing/processing terminal produce and process said item or provide a produced and processed item (FIG 5A-F and col 10, lines 15-40).

In regards to claim 2, Garfinkle teaches wherein said item or service is an item edited with digital data or editing of said digital data (col 10, lines 15-27, digital images uploaded); and

wherein said orderer terminal transmits said digital data together with said order (col 10, lines 15-27); and

wherein each of said producing/processing terminals receives said order and said digital data transmitted via said network and via said headquarters terminal and then edits said digital data in accordance with the content of said order (col 7, lines 4-60).

In regards to claim 3, Garfinkle teaches wherein said digital data comprises image data or acoustic data (col 10, lines 15-25).

In regards to claim 4, Garfinkle teaches a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal (FIG 5D, Item 5I).

In regards to claim 5, Garfinkle teaches wherein said item or said service is delivered or supplied to a destination other than said orderer (FIG 5E).

In regards to claim 6, Garfinkle teaches a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal (see response to claim 4).

In regards to claim 7, Garfinkle teaches wherein said item or said service is delivered or supplied to a destination other than said orderer (see response to claim 5).

In regards to claim 8, Garfinkle teaches wherein said digital data comprises image data or acoustic data (see response to claim 3).

In regards to claim 9, Garfinkle teaches a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal (see response to claim 4).

In regards to claim 10, Garfinkle teaches wherein said item or said service is delivered or supplied to a destination other than said orderer (see response to claim 5).

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In regards to claim 11, Garfinkle teaches a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal (see response to claim 4).

In regards to claim 12, Garfinkle teaches wherein said item or said service is delivered or supplied to a destination other than said orderer (see response to claim 5).

In regards to claim 13, Garfinkle teaches wherein said item or said service is delivered or supplied to a destination other than said orderer (see response to claim 5).

In regards to claim 14, Garfinkle discloses a headquarters terminal comprising: orderer terminals each for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interaction with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted from said orderer terminal via said network;

a transmitter for transmitting an item received by said receiving means to a producing/receiving terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said producing/processing terminal produce and process said item or making said selected producing/processing terminal supply said produced/processed item;

wherein a network commerce is performed between said orderer terminal and said producing/processing terminal connected via a network (see response to claim 1).

In regards to claim 15, Garfinkle discloses a producing/processing terminal comprising:

orderer terminals each for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each which is handled by a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted from an orderer terminal via said network;

a transmitter for transmitting an order received by said receiver to a producing/processing terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said producing/processing terminal produce and process said item or supply said produced/processed item;

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wherein a network commerce is performed between said orderer terminal and said producing/processing terminal connected via a network (see response to claim 1).

In regards to claim 16, Garfinkle discloses an orderer terminal used in a network commerce system,

said network commerce system comprising:

orderer terminals each for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interaction with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted from an orderer terminal via said network a transmitter for transmitting an item received by said receiver to a producing/receiving terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said selected producing/processing terminal produce and process said item or supply said produced/processed item;

wherein a network commerce is performed between a producing/processing terminal and said headquarters terminal connected via a network (see response to claim 1).

In regards to claim 17, Garfinkle discloses a payment terminal used in a network commerce system, said network commerce system comprising:

orderer terminals each for interacting with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interacting with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted from said orderer terminal via said network;

a transmitter for transmitting an item received by said receiver to a producing/receiving terminal via said network;

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said selected producing/processing terminal produce, and process said item or supply said produced/processed item; and

a payment terminal for paying a purchase charge of said item or service sold or supplied via said orderer terminal;

wherein a network commerce is performed between said orderer terminal and said producing/processing terminal and said headquarters terminal, interconnected via a network (see response to claim 1 and 4).

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In regards to claim 18, Garfinkle discloses a network commerce method, wherein an orderer terminal orders an item or service via a network and a producing/processing terminal sells said item or provides said service, in accordance with said order, the method comprising the steps of:

receiving said order transmitted from said orderer terminal via said network, using a headquarters terminal;

selectively determining a producing/processing terminal for said item in accordance with the content of said received order, using said headquarters terminal;

transmitting said order to said selected producing/processing terminal via said network;

making said selected producing/processing terminal produce and process said item or supply said produced/processed item; and

paying, when said order is received or after said produced/processed item is supplied, a purchase charge of said item or service via said orderer terminal (see response to claim 17 and FIG 5E, pickup).

(11) Response to Argument

Appellant argues that Garfinkle does not teach a single subsystem i.e., "the headquarters terminal including a receiver for receiving an image order from said orderer terminal transmitted via said network and a transmitter for transmitting the order received by said receiver to a producing/processing terminal via said network". The examiner disagrees and directs the appellants attention to col 10 lines 28-40 where it is explicitly taught that interface B receives an order from an orderer (photographer 8) and the order is transmitted to a producing/processing terminal (fulfillment center 20) via a network interconnected as shown in FIG 1.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Mark Fadok
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February 16, 2006

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